

IFW



Attorney Docket No: 0263421-0040

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Lombardi, et al.

Examiner: To be assigned

Serial No.: 10/626,079

Art Unit: To be assigned

Filing Date: July 24, 2003

Title: IN-LINE FLOW THROUGH DIAPHRAGM TANK

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on October 28, 2004.

Susan M. Dinsmore

**STATEMENT FILED PURSUANT TO THE DUTY OF DISCLOSURE**

**UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, Applicants respectfully request consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

(Select A, B or C below)

A. ☒ This Information Disclosure Statement has been filed:

(check 1, 2 and/or 3 below)

1. ☐ within three months of the filing date of the above identified U.S. Patent application;
2. ☐ within three months of the filing date of the entry of the National Stage, as set forth in 37 C.F.R. §1.491, in an International application; and/or

3. ☒ before the mailing date of the first Office Action on the merits in the above-identified application.

No fee or certification is required.

- B. ☐ This Information Disclosure Statement has been filed more than three months after the filing date of the present application and after the mailing date of this first Office Action, but before the mailing date of either a final action under 37 C.F.R. §1.113 or a Notice of Allowance under 37 C.F.R. §1.311.

(check 1 or 2 below)

1. ☐ The fee of \$180 as set forth in 37 C.F.R. §1.17(p) is enclosed; or
2. ☐ Applicants hereby certify, as specified in 37 C.F.R. §1.97(e), that (check a or b below)
  - a. ☐ each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign Patent Office in a counterpart for this application not more than three months prior to the filing of this Statement; or
  - b. ☐ no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign Patent Office in a counterpart for this application or, to the knowledge of the undersigned after making reasonable inquiry, was known to any individual designated in 37 C.F.R. §1.56(c) more than three months prior to the filing of this Statement.
  - c. ☐ items indicated by an asterisk were identified in a recent review of related files.

- C. ☐ This Information Disclosure Statement has been filed after the mailing date of either a Final action under 37 C.F.R. §1.113 or a Notice of Allowance under 37 C.F.R. §1.311 and before payment of an Issue Fee.

(check 1, 2, and 3 below)

1. ☐ The Applicant hereby certifies, as specified in 37 C.F.R. §1.97(e), that: (check a or b below)

- a. ☐ each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign Patent Office in a counterpart for this application not more than three months prior to the filing of this Statement.
  - b. ☐ no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign Patent Office in a counterpart for this application or, to the knowledge of the undersigned after making reasonable inquiry, was known to any individual designated in 37 C.F.R. §1.56(c) more than three months prior to the filing of this Statement.
- 2. ☐ A Petition requesting consideration of the Information Disclosure Statement is attached.
  - 3. ☐ The Petition Fee of \$130 as set forth in 37 C.F.R. §1.17(i)(1) is enclosed.

PART II - Information Cited

- A. ☒ The Applicant hereby makes of record in the above-identified application the reference(s) listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.
- B. ☐ The Applicant hereby makes the following additional information of record in the above-identified application:

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

- A. ☐ The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified):
- B. ☐ The following are remarks concerning the other information cited:

PART IV: Remarks

A. ☒ Copies of references

(check 1 or 2 below)

1. ☒ A copy of each of the references cited on the attached form PTO-1449 (modified) is enclosed, except for U.S. patents and U.S. patent application publications for which the submission requirement has been waived by the PTO in the Official Gazette Notice of August 5, 2003, for applications filed after June 30, 2003.
2. ☐ Copies of certain of the references cited on the attached form PTO-1449 (modified) are not enclosed because each of these references (indicated by asterisk) was previously cited by or submitted to the Office in a prior application, U.S.S.N. \_\_\_\_\_, which prior application is relied upon for an earlier filing date under 35 U.S.C. § 120.

B. ☒ It is respectfully requested that:

(check 1, 2, and 3 below)

1. ☒ The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. ☒ The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited patent(s) and publication(s) has (have) been fully considered by the Patent and Trademark Office during the examination of this application;
3. ☒ The citations for the patent(s) and publication(s) be printed on any patent which issues from this application.


C. ☒ By submitting this Information Disclosure Statement, Applicants make no representation that a search has been performed, of the extent of any search performed, or that more material information may not exist.

- D. ☒ By submitting this Information Disclosure Statement, Applicants make no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).
- E. ☒ By submitting this Information Disclosure Statement, Applicants make no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.
- F. ☒ Notwithstanding any statements by Applicants, the Examiner is urged to form his or her own conclusions regarding the relevance of the cited reference(s).

An early and favorable action is hereby requested.

Please charge any additional fees or credit any overpayments to our Deposit Account No. 03-1721.

Respectfully submitted,

By:   
\_\_\_\_\_  
Valarie B. Rosen, Ph.D.  
Registration Number 45,698

CHOATE, HALL & STEWART  
Exchange Place  
53 State Street  
Boston, Massachusetts 02109  
(617) 248-5000  
Dated: October 28, 2004

3761545v1

**INFORMATION DISCLOSURE STATEMENT**

(Use several sheets if necessary)

APPLICANT: LOMBARI, ET AL.

FILING DATE:  
JULY 24, 2003

GROUP:

**U.S. PATENT DOCUMENTS**

Examiner's Initials	U.S. Patent No.	Applicant	Issue Date	Class	Subclass
	2,841,181	Hewitt, et al.	July 1, 1958		
	3,063,470	W.R. Forster	November 13, 1962		
	3,536,102	Allewitz, et al.	October 27, 1970	138	30
	4,088,154	Patton, et al.	May 9, 1978	138	30
	4,263,498	Meyers	April 21, 1981	219	312
	4,628,964	Sugimura, et al.	December 16, 1986	138	30
	4,705,077	Sugimura	November 10, 1987	138	30
	4,732,175	Pareja	March 22, 1988	138	30
	4,732,176	Sugimura	March 22, 1988	138	30
	4,759,387	Arendt	July 26, 1988	138	30
	4,784,181	Hilverdink	November 15, 1988	138	30
	5,027,860	Tuthill, Jr.	July 2, 1991	138	30
	5,386,925	Lane	February 7, 1995	220	530
	5,584,316	Lund	December 17, 1996	137	337
	5,690,061	Lopez	November 25, 1997	122	17
	5,732,741	Shiery	March 31, 1998	138	30
	5,735,313	Jenski, et al.	April 7, 1998	138	30
	5,823,007	Chang	October 20, 1998	62	397
	5,860,452	Ellis	January 19, 1999	138	30
	5,988,984	Austin	November 23, 1999	417	44.2
	6,041,820	Boehme	March 28, 2000	138	30
	6,063,275	Traylor	May 16, 2000	210	248
	6,264,247	Lombari, et al.	July 24, 2001	285	202
	6,328,071	Austin	December 11, 2001	138	30
	6,418,969	Bertagna	July 16, 2002	138	30

**U.S. PATENT APPLICATIONS**

Examiner's Initials:	Publication Number:	Applicant:	Filing Date:	Group:	Art Unit:
-------------------------	---------------------	------------	--------------	--------	-----------

FORM PTO-1449

(REV. 8-83)

NOV 01 2004

U.S. Department of Commerce  
Patent and Trademark Office

ATTY. DOCKET:

0263421-0040

IN RE

APPLICATION NO.

10/626,079

**INFORMATION DISCLOSURE STATEMENT***(Use several sheets if necessary)*

APPLICANT: LOMBARI, ET AL.

FILING DATE:

JULY 24, 2003

GROUP:

2003/0111473

Carter, et al.

June 19, 2003

**FOREIGN PATENT DOCUMENTS**

Examiner's Initials	Document No.	Country	Date	Translation	
				Yes	No
	WO 02/39007	PCT	17 May 2002		

**OTHER DOCUMENTS**

Examiner's Initials	Citation (Including Author, Title, Date, Pertinent Pages, Etc.)
	AQUA-STOR, Water Storage Units for 6" & 6-1/2" Wells, 4' & 8' Models, data sheet, Dempster Industries, Inc., dated before July 24, 2003 (1 pg.).
	Installation Instruction Sheet, Model 60TA5-1, Tank-E-Liminators, Webtrol, Weber Industries, Inc., dated before July 24, 2003 (1 pg.).
	Watts Industries, Inc., Series ILT-5 and ILT-12 In-Line Water Expansion Tanks, dated 2001 (2 pgs.).